



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 19, 2011

Mr. B. Chase Griffith  
Brown & Hofmeister, LLP  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2011-07084

Dear Mr. Griffith:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 418025.

The Little Elm Police Department (the "department"), which you represent, received a request for the report pertaining to incident number 1000060231. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> Gov't Code § 552.101. This exception encompasses information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201(a) generally makes confidential working papers used or developed in investigations of child abuse or neglect. Fam. Code § 261.201(a). Upon review, we find the submitted report was used or developed in an investigation by the department of child abuse for purposes of section 261.201. *See id.* § 261.001(1)(E) (definition of "abuse" includes indecency with a child under section 21.11, Penal Code). Thus, this report is subject to section 261.201. Section 261.201(k) states, however, an investigating agency may not withhold from the parent of a child who is the

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

subject of reported abuse or neglect, information concerning the reported abuse or neglect that would otherwise be confidential under section 261.201(a), unless the parent of the child requesting the information is alleged to have committed the abuse or neglect. *Id.* § 261.201(k). You acknowledge the requestor is a parent of the child victim listed in the report and is not alleged to have committed the suspected abuse. As such, the submitted report may not be withheld from this requestor on the basis of section 261.201(a). Section 261.201(l)(2) states, however, that any information excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Thus, because you raise section 552.108(a)(2) of the Government Code for the submitted report, we next consider the applicability of that exception.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You represent the submitted report pertains to a case that has been closed without charges filed, and thus ended in a result other than conviction or deferred adjudication. Thus, based on your representation and our review, we conclude that section 552.108(a)(2) is generally applicable to the submitted documents.

However, section 552.108 of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). The complainant in the submitted report is also the reporting party. Section 261.201(l)(3) of the Family Code states the identity of the reporting party must be withheld when a governmental body releases information under section 261.201(k). Fam. Code § 261.201(l)(3). Thus, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. However, in releasing basic information, the department must withhold the reporting party's identity under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.<sup>2</sup>

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<sup>2</sup>We note the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Davis", written in a cursive style.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/eeg

Ref: ID# 418025

Enc. Submitted documents

c: Requestor  
(w/o enclosures)